

Defendants move to dismiss Count VII, for negligent misrepresentation against Yellin and CILA, on the ground that it is barred by the economic loss doctrine. See Spring Motors Distribs. v. Ford Motor Co., 98 N.J. 555, 581 (1985) (stating the economic loss doctrine.) Defendants contend that Count VII is a claim for purely economic loss suffered as a result of breach of contractual duties. As Plaintiff argues in opposition, Defendants have misread Count VII, which expressly states: “Defendants breached their duty by making these misrepresentations in an effort to get Plaintiffs *to enter into agreements* with them.” (Sec. Am. Compl. ¶ 322; italics

added.) This is plainly a theory about the circumstances of inducement to contract, not the breach of a contract. The economic loss doctrine neither applies to Count VII nor bars it. As Plaintiff states, Count VII is asserted in the alternative to its fraud in the inducement claim.

Previously, this Court granted Defendants' motion to strike paragraphs 137, 147 and 167 in the Amended Complaint as irrelevant. Defendants now contend that Plaintiff has reinserted these paragraphs into the Second Amended Complaint, where they are now paragraphs 150, 161 and 252. Defendants move again to strike the paragraphs as irrelevant and ask for an award of costs, pursuant to 28 U.S.C. § 1927, as a sanction for multiplying proceedings. The Court again grants the motion to strike; the paragraphs are no more relevant now than they were the first time around. The Court denies the motion for costs, as the effort that was required to renew the motion to strike was minimal.

For these reasons,

IT IS on this 23rd day of June, 2023

ORDERED that Defendants' motion to dismiss (Docket Entry No. 28) is **DENIED**; and it is further

ORDERED that Defendants' motion to strike paragraphs 150, 161 and 252 in the Second Amended Complaint (Docket Entry No. 28) is **GRANTED**, and the Court hereby **STRIKES** paragraphs 150, 161 and 252 in the Second Amended Complaint; and it is further

ORDERED that Defendants' motion to award costs, pursuant to 28 U.S.C. § 1927, as a sanction for multiplying proceedings (Docket Entry No. 28) is **DENIED**.

s/ Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge